

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM MAYO,	:	CIVIL ACTION NO. 1:18-CV-878
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
JOHN E. WETZEL,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 23rd day of March, 2023, upon consideration of plaintiff William Mayo’s motion for appointment of counsel, (Doc. 124), and the court observing that, while there is no right to counsel in a civil case, *see Tabron v. Grace*, 6 F.3d 147, 153-54 (3d Cir. 1993); *Parham v. Johnson*, 126 F.3d 454, 456-57 (3d Cir. 1997), pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel,” and further observing that, under *Tabron v. Grace*, in deciding whether counsel should be appointed, the court first considers whether a claim or defense has “arguable merit in fact and law,” and, if it does, the court then considers additional factors, which include: (1) the applicant’s ability to present his or her case; (2) the complexity of the legal issues presented; (3) the degree to which factual investigation is required and the ability of the applicant to pursue such investigation; (4) whether credibility determinations will play a significant role in the resolution of the applicant’s claims; (5) whether the case will require testimony from expert witnesses; and (6) whether the applicant can afford counsel on his or her own behalf, *Tabron*, 6 F.3d at 155-57, and the court

finding that Mayo's claims have arguable merit in fact and law as he has survived Defendants' Rule 56 challenge; mediation was unsuccessful through this district's Prisoner Litigation Settlement Program; this case is scheduled for trial in late May 2023; Mayo is unable to afford private counsel; and the issues involved are complex; it is hereby ORDERED that:

1. Plaintiff's motion for appointment of counsel (Doc. 124) is **conditionally** GRANTED.
2. Counsel is **conditionally** appointed pursuant to 28 U.S.C. § 1915(e)(1). The Clerk of Court shall forward a copy of this Order to the Chair of the Federal Bar Association's Pro Bono Committee, Michael A. O'Donnell, Esq., O'Donnell Law Offices, 267 Wyoming Ave., Kingston, Pennsylvania, 18704, for the purpose of obtaining *pro bono* counsel for Mayo. **Should *pro bono* counsel be unable to be located, Mayo will be required to continue with his case *pro se*.**
3. The deadlines in this case shall be STAYED for 30 days while Attorney O'Donnell attempts to find *pro bono* counsel to represent Plaintiff.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania